

1 State of Arkansas
2 92nd General Assembly
3 Regular Session, 2019
4

A Bill

SENATE BILL 299

5 By: Senator K. Hammer
6 By: Representative Lundstrum
7

For An Act To Be Entitled

9 AN ACT TO AMEND THE LAW REGARDING DISQUALIFICATION
10 UNDER THE DEPARTMENT OF WORKFORCE SERVICES LAW; TO
11 AMEND CERTAIN ELIGIBILITY REQUIREMENTS UNDER THE
12 DEPARTMENT OF WORKFORCE SERVICES LAW; TO AMEND THE
13 DEFINITION OF "WEEK OF UNEMPLOYMENT" UNDER THE
14 DEPARTMENT OF WORKFORCE SERVICES LAW; AND FOR OTHER
15 PURPOSES.
16
17

Subtitle

18 TO AMEND THE LAW REGARDING
19 DISQUALIFICATION UNDER THE DEPARTMENT OF
20 WORKFORCE SERVICES LAW; AND TO AMEND
21 CERTAIN ELIGIBILITY REQUIREMENTS UNDER
22 THE DEPARTMENT OF WORKFORCE SERVICES LAW.
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26 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
27

28 SECTION 1. Arkansas Code § 11-10-507(3)(A), concerning the eligibility
29 requirements to work under the Department of Workforce Services Law, is
30 amended to read as follows:

31 (A) (i) The worker is unemployed, is physically and
32 mentally able to perform suitable work, and is available for ~~such~~ the work.
33 Mere registration and reporting at a local employment office shall not be
34 conclusive evidence of ability to work, availability for work, or willingness
35 to accept work unless the individual is doing those things which a reasonably
36 prudent individual would be expected to do to secure work.



1 benefit amount.

2 ~~(2) However, no week may be used in satisfaction of a~~
3 ~~disqualification under § 11-10-514(a) or § 11-10-515 which is prior to the~~
4 ~~filing of his or her claim.~~

5
6 SECTION 4. Arkansas Code § 11-10-513(a)(4), concerning the
7 continuation of the disqualification for benefits, is amended to read as
8 follows:

9 (4) The disqualification shall continue until, subsequent to
10 ~~filing a claim~~ the effective date of the disqualification, he or she has had
11 at least thirty (30) days of employment covered by an unemployment
12 compensation law of this state, another state, or the United States.

13
14 SECTION 5. Arkansas Code § 11-10-514(a)(5), concerning the
15 continuation of the disqualification for benefits, is amended to read as
16 follows:

17 (5) The disqualification under subsection (a) of this section
18 shall continue until, subsequent to ~~filing a claim~~ the effective date of the
19 disqualification, the individual has had at least thirty (30) days of
20 employment covered by an unemployment compensation law of this state, another
21 state, or the United States.

22
23 SECTION 6. Arkansas Code § 11-10-515(a)(1)(B), concerning the
24 continuation of the disqualification for benefits, is amended to read as
25 follows:

26 (B) The disqualification under subdivision (a)(1)(A) of
27 this section shall continue until, subsequent to ~~filing a claim~~ the effective
28 date of the disqualification, he or she has had at least thirty (30) days of
29 employment covered by an unemployment compensation law of this state, another
30 state, or the United States ~~and shall begin with the week in which the~~
31 ~~failure to apply for or accept available suitable work occurred.~~

32
33 SECTION 7. Arkansas Code § 11-10-517(1), concerning disqualification
34 based on the receipt of other remuneration, is amended to read as follows:

35 (1) Separation Payments.

36 ~~(A)(i)(a) Separation payments shall be treated as earnings~~

1 ~~in accordance with § 11-10-503.~~

2 ~~(b) Separation payments in excess of those~~
3 ~~covering a period of eight (8) weeks of wages and an armed services severance~~
4 ~~payment paid to a former member of the United States Armed Forces shall not~~
5 ~~be disqualifying under the terms of this section.~~

6 ~~(ii) Separation payments provided in the form of a~~
7 ~~lump sum are disqualifying only for the week in which they are received.~~

8 ~~(iii) Remuneration paid as back pay in settlement of~~
9 ~~a claim or grievance and supplemental unemployment benefits shall not be~~
10 ~~disqualifying.~~

11 ~~(B)(A)~~ For initial claims made on and after January 1,
12 2018:

13 (i)(a) Separation payments are disqualifying for the
14 number of weeks following the date of the separation that equals the number
15 of weeks of wages received in the separation payment.

16 (b) An armed services severance payment paid
17 to a former member of the United States Armed Forces shall not be
18 disqualifying under the terms of this section.

19 (c) Remuneration paid as back pay in
20 settlement of a claim or grievance and supplemental unemployment benefits
21 shall not be disqualifying; ~~and~~

22 (ii)(a) The employer shall specify the total amount
23 of separation pay and the number of weeks of wages represented by the
24 separation pay.

25 (b) If the employer does not specify the
26 number of weeks under ~~subdivision (1)(B)(ii)(a)~~ subdivision (1)(A)(ii)(a) of
27 this section, the Department of Workforce Services shall allocate the
28 separation pay using the claimant's average weekly wage; and

29 (B) For the purposes of this subdivision (1)(A), a partial
30 week of separation pay shall be treated as a payment for a full week of
31 separation;

32
33 SECTION 8. Arkansas Code § 11-10-519(a), concerning disqualification
34 for benefits due to a false statement or misrepresentation of a material
35 fact, is amended to read as follows:

36 (a) If so found by the Director of the Department of Workforce

1 Services, an individual shall be disqualified for benefits:

2 (1)(A) If he or she willfully makes a false statement or
 3 misrepresentation of a material fact or willfully fails to disclose a
 4 material fact in filing an initial claim or a claim renewal, he or she shall
 5 be disqualified from the ~~date of filing the claim~~ effective date of the
 6 disqualification until he or she has ~~ten (10)~~ twenty (20) weeks of employment
 7 in each of which he or she has earned wages equal to at least his or her
 8 weekly benefit amount.

9 (B)(i) In addition to the twenty-week disqualification in
 10 subdivision (a)(1)(A) of this section, any weekly benefits payable subsequent
 11 to the date of delivery or mailing of the determination shall be terminated.

12 (ii) The termination shall apply only to benefits
 13 payable within the benefit year of the claim with respect to which the
 14 claimant willfully made a false statement or misrepresentation;

15 (2)(A) For any continued week claimed with respect to which the
 16 employee has willfully made a false statement or misrepresentation of a
 17 material fact or willfully fails to disclose a material fact in obtaining or
 18 attempting to obtain any benefits, and for an additional thirteen (13) weeks
 19 of unemployment, as defined in § 11-10-512, and which shall commence with
 20 Sunday of the first week with respect to which a claim is filed commencing
 21 with the week of delivery or mailing of the determination of disqualification
 22 under this section.

23 (B)(i) In addition to the thirteen (13) weeks of
 24 disqualification, a disqualification of three (3) weeks shall be imposed for
 25 each week of failure or falsification.

26 (ii)(a) Any weekly benefits payable subsequent to
 27 the date of delivery or mailing of the determination shall be terminated.

28 (b) The termination shall apply only to
 29 benefits payable within the benefit year of the claim with respect to which
 30 the claimant willfully made a false statement or misrepresentation; and

31 (3)(A) The disqualification shall not be applied after ~~two and~~
 32 ~~one-half (2½)~~ five (5) years have elapsed from the date of delivery or
 33 mailing of the determination of disqualification under this section, ~~but all~~
 34 ~~overpayments established by the determination of disqualification shall be~~
 35 ~~collected as otherwise provided by this chapter.~~

36 (B)(i) A person who is disqualified under this section

1 shall be liable for repayment of any benefits determined to have been
 2 collected fraudulently, as well as any other penalties, interest, and costs
 3 assessed as a result of the fraudulent activity.

4 (ii) Until the liabilities have been repaid, the
 5 person shall forfeit any right to receive benefits under this chapter.

6
 7 SECTION 9. Arkansas Code § 11-10-532(a), concerning recovery of claims
 8 of benefits, is amended to read as follows:

9 (a)(1) If the Director of the Department of Workforce Services finds
 10 that a person knowingly has made a false statement or misrepresentation of a
 11 material fact or knowingly has failed to disclose a material fact and as a
 12 result of either action has received benefits under this chapter to which he
 13 or she was not entitled, then he or she is liable to repay the amount to the
 14 Unemployment Compensation Fund, ~~or the director may recover the amount of the~~
 15 ~~overpayment by deductions from any future benefits payable to the person~~
 16 ~~under this chapter.~~

17 (2) Once the overpayment becomes final ~~pursuant to~~ under § 11-
 18 10-527, the amount owed shall accrue interest at the rate of ten percent
 19 (10%) per annum beginning thirty (30) days after the date of the first
 20 billing statement.

21 (3)(A)(i) A penalty of ~~fifteen percent (15%)~~ fifty percent (50%)
 22 of the amount of the overpayment at the time the overpayment becomes final
 23 shall be assessed on all fraudulent overpayments.

24 (ii) An overpayment established under this
 25 subsection that is repaid within thirty (30) days of the mailing date of the
 26 determination shall be assessed a reduced penalty of fifteen percent (15%).

27 (B) An overpayment established under this subsection that
 28 is determined to have been as a result of benefits collected fraudulently, as
 29 well as any other penalties, interest, and costs assessed as a result of the
 30 fraudulent activity, shall be repaid before the person receives benefits
 31 under this chapter.

32 (C) The portion of the penalty assessed under subdivision
 33 (a)(3)(A) of this section in excess of fifteen percent (15%) of the
 34 overpayment shall be deposited into a subaccount of the Department of
 35 Workforce Services Special Fund under § 19-5-984, to be entitled "UI
 36 Integrity Fund" that shall be used exclusively for integrity related

1 activities arising under this chapter.

2
3 SECTION 10. Arkansas Code § 11-10-532(b)(2), concerning recovery of
4 overpaid benefits, is amended to read as follows:

5 (2)(A) In lieu of requiring the repayment, the director may
6 recover the amount by deduction of any future benefits payable to the person
7 under this chapter unless the director finds that the overpayment was
8 received ~~without fault on the part of the recipient~~ as a direct result of an
9 error by the Department of Workforce Services and that its recovery would be
10 against equity and good conscience.

11 (B) As used in subdivision (b)(2)(A) of this section,
12 "direct result of an error by the Department of Workforce Services" does not
13 include overpayments established under an appeal reversal as a result of the
14 successful appeal of a denial of benefits.

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16 SECTION 11. EFFECTIVE DATE. This act shall be effective on and after
17 October 1, 2019.